

**UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION**

<b>ELAINE L. CHAO</b> , Secretary of Labor,	)	
United States Department of Labor,	)	
Plaintiff,	)	
	)	Civil Action No.: <b>3:07-cv-143-RLY-WGH</b>
v.	)	
	)	
<b>BUVANTO, INC. d/b/a JIMMY JOHN'S</b>	)	
<b>GOURMET SANDWICHES, and</b>	)	
<b>KENNETH E. BUTLER, II,</b>	)	
<b>an individual,</b>	)	
Defendants.	)	

**JUDGMENT**

Plaintiff, **ELAINE L. CHAO**, Secretary of Labor, United States Department of Labor having filed her complaint and defendants, **BUVANTO, INC. d/b/a JIMMY JOHN'S GOURMET SANDWICHES, and KENNETH E. BUTLER, II**, an individual, having hereby appeared by counsel, having waived answer, and having been duly advised in the premises agree to the entry of this judgment without contest; now, therefore, upon motion of attorneys for plaintiff, and for cause shown, it is

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them be, and they hereby are, permanently enjoined and restrained from violating the provisions of the Fair Labor Standards Act of 1938, as Amended (29 U.S.C. §201 et seq.) hereinafter called the Act, in any of the following manners:

**I**

Defendants shall not, contrary to sections 6 and 15(a)(2) of the Act, pay any of their

employees who in any workweek are engaged in commerce or the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at a rate of less than \$5.85 per hour prior to July 24, 2008, less than \$6.55 per hour from July 24, 2008 through July 23, 2009, or less than \$7.25 per hour beginning July 24, 2009 (or at a rate less than such other applicable minimum rate as may hereinafter be established by amendment to the Act).

## **II**

Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act, employ any of their employees who in any workweek are engaged in commerce or the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty hours, unless such employee receives compensation for his employment in excess of forty hours at a rate not less than one and one-half times the regular rates at which he is employed.

## **III**

Defendants shall not fail to make, keep and preserve records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to section 11(c) of the Act and found in 29 CFR Part 516.

## **IV**

Defendants shall not withhold payment of the sum of \$24,638.22 plus interest which represents the unpaid minimum wage and overtime compensation hereby found to be due, for the period April 19, 2005 to August 1, 2006, to the present and former employees named in Exhibit

A, attached hereto and made a part hereof, to be paid as set out below.

Defendants shall pay to the plaintiff the sum of \$24,638.22 plus interest (\$288.24) which represents the unpaid minimum wage and overtime compensation found to be due, for the period April 19, 2005 through August 1, 2006 plus post judgment interest for those employees listed in Exhibit A hereof. These amounts will be paid in installments as follows:

<u>Installment No.</u>	<u>Due Date</u>	<u>Amount Due</u>
Installment No. 1	October 17, 2007	\$ 4,154.41
Installment No. 2	November 17, 2007	\$ 4,154.41
Installment No. 3	December 17, 2007	\$ 4,154.41
Installment No. 4	January 17, 2007	\$ 4,154.41
Installment No. 5	February 17, 2008	\$ 4,154.41
Installment No. 6	March 17, 2008	\$ 4,154.41

(a) The aforesaid installment payments shall be paid by defendants Buvanto, Inc. d/b/a Jimmy John's Gourmet Sandwiches, and Kenneth E. Butler, II to the plaintiff, by defendants delivering to plaintiff the following on or before each of the installment dates heretofore set forth herein.

(b) Certified or cashiers checks made payable to "Wage and Hour Div., Labor".

(c) The installments shall be made by mailing each such check by certified mail with the schedule hereinbefore described to the U.S. Department of Labor, Midwest Regional Office, Wage and Hour Division, P.O. Box 2638, Chicago, Illinois 60690-2638.

(d) Should the defendants fail to pay any of the aforesaid installment payments set forth above on or before the dates set forth above, the entire amount of the balance of unpaid

compensation remaining shall become due immediately without further notice by plaintiff to defendants.

(e) The DOL shall distribute the proceeds of the each installment back wage check (less legal deductions for each employee's share of social security and federal withholding taxes) to the persons enumerated in Attachment A or to their estates if that be necessary, and any money not so paid because of inability to locate the proper persons or because of their refusal to accept it, shall be deposited with the Clerk of the Court, who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. 2041.

**V**

Defendants shall not request, solicit, suggest, or coerce, directly or indirectly, any employee to return or to offer to return to the defendants or to someone else for the defendants, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this judgment or the Act; nor shall defendants accept, or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to said employee under the provisions of this judgment or the Act; nor shall defendants discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from the defendants under the provisions of this judgment or the Act.

**FURTHER**, it is agreed by the parties herein and hereby **ORDERED** that each party bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding to date.


Dated 10/24/2007



**RICHARD L. YOUNG, JUDGE**  
United States District Court  
Southern District of Indiana

Defendants hereby consent to the entry of this judgment this 8<sup>th</sup> day of October, 2007.

**BUVANTO, INC. d/b/a**  
**JIMMY JOHN'S GOURMET**  
**SANDWICHES**, a corporation,  
defendants,

by   
Ken Butler II

Its OWNER  
  
(Title of officer)

  
**KENNETH L. BUTLER, II**  
an Individual, defendant,

  
**H. LINWOOD SHANNON, III**  
Fine & Hatfield,  
A Professional Corporation,  
520 N.W. 2<sup>nd</sup> Street  
Evansville, Indiana 47705-0779  
(812) 425-3592

**JONATHAN L. SNARE**  
Acting Solicitor of Labor

**JOAN E. GESTRIN**  
Regional Solicitor

  
**EMELDA MEDRANO**  
Attorney

Attorneys for **ELAINE L. CHAO**  
Secretary of Labor,  
United States Department of Labor,  
Plaintiff  
Office of the Solicitor  
U.S. Department of Labor  
230 S. Dearborn Street, 8<sup>th</sup> Floor  
Chicago, Illinois 60604  
(312) 353-1169

**EXHIBIT A**

<b><i>EMPLOYEE NAME</i></b>	<b><i>BACKWAGES DUE</i></b>
Jeff Adams	\$ 1,117.28
Nathan Anderson	187.97
Paige Anderson	180.25
Brandon Bell	568.59
Alex Bertola	613.26
David Blue	401.37
Barb Bosse	200.85
Erik Bowlds	138.13
Alex Brandt	294.45
Myshawan Brooks	541.71
Landon Brown	610.33
Nick Cameron	29.01
Joshua Clark	111.14
Hannah Clevidence	42.50
Kara Cochran	90.02
David Coker	761.10
Jessie Cole	178.96
Kara Collins	51.00
Amanda Conner	20.86
Erwin Craig Jr.	51.50
Myeshaw Crenshaw	21.22
Jared Daniel	93.22
Lyndsey Dibble	361.14
Greg Diefenbach	73.22
Dave Dimmett	97.85
Casey Doerter	58.24
Caitlin Donahue	229.34
Nichole Doughty	63.75
Natasha Douglas	66.94
Brittney Edwins	124.17
Rose Evans	74.68
Holly Fehn	125.38
Daniel Fern	1,701.03
William Fooks	271.66
James Fornandez	205.58
Amanda Frakes	366.04
Amanda Frederick	67.62
Jessie Gardner	303.08
Samantha Gardner	530.38
Ryan Gaw	87.13

Cara Gerling	\$ 69.06
Jerry Gerling	198.94
Carl Gillespie	70.04
Chris Good	795.35
Brent Gordon	527.88
Amber Green	136.48
Michael Halcomb	34.88
Adam Hale	215.68
Zach Hallam	679.46
Tiffany Halweg	123.45
Christine Hanlon	56.65
Chris Hargrave	168.67
Dax Hawes	72.20
Ashleigh Higgason	130.53
Tracy Hipp	100.94
Charissa Holman	193.38
Ashley Hughes	246.50
Ashley Jones	25.75
Mike Jones	105.19
Megan Kenzli	133.90
Kayla Kirkwood	174.25
Samantha Kissell	103.58
Emily Kissinger	21.54
Michael Lattner	303.49
Adam Lehr	98.82
Kelsey Lindaver	99.88
Jessica Luigs	154.06
Nick Luttrell	130.55
Laura Lyons	52.79
Adam Matheny	42.50
Evan Matthews	31.54
Brian McCurry	89.25
Zach Nalley	42.50
Seth Nance	37.95
Zach Neumann	149.33
Chris Neville	99.65
Sara Newman	1,251.45
Ryan Nicholson	373.55
Philip Nolen	21.89
Andrew Packer	23.69
Jami Pantages	\$ 82.40
Nicholi Quelette II	335.88
Erik Ramos	266.10

Johnny Rogers	477.11
Brian Rohrer	245.14
Kara Rose	346.65
Greg Schafer	112.07
Brittany Schneider	120.40
Kaitlin Schneider	146.62
Mike Schultz	252.88
Logan Sellner	249.76
Todd Sensmeier	215.01
Kris Seyferth	156.46
John Shutsman	20.60
Sean Simon	167.38
Sarah Smithey	131.75
Bobby Stotlar	93.99
Dustin Stradling	39.91
Brittany Strohmeier	159.27
Jessica Taylor	127.46
Randall Thompson	34.57
Roy Trafford	47.81
Vicky Tsoumbakopoulos	86.78
Mike Virgin	271.23
Jason Voegeli	89.97
Kenzie Waggoner	42.50
Richard Wall	95.28
Sean Ware	96.56
Jennifer Warner	127.09
Catherine Wathen	46.75
Josh Watjen	555.66
John Webb	196.80
Justin Werremeyer	192.48
Matt Whitledge	108.15
Dustin Whoeby	106.25
Zane Willett	33.48
Andrea Williams	34.27
Josh Winters	46.35
Michael Witty	90.13
Zachary Ziliak	90.13